

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DEBRA M. LEVERANCE,

Plaintiff,

v.

Case No. 09-C-559

MICHAEL J. ASTRUE,

Defendant.

DECISION AND ORDER

In my previous order in this Social Security action, I noted that a remand might not make sense because it appeared that nothing in the record would undermine the opinion of Dr. Wilson, Plaintiff's treating physician. I thus directed the Commissioner to address the question of whether I should remand the action or whether I should simply enter an award of benefits. The Commissioner has responded with a motion to remand. The government notes that a remand would not be fruitless because the ALJ could re-contact Dr. Lyons for clarification of his opinion or order a consultative examination. This would allow Lyons or possibly another physician to opine expressly, rather than obliquely, as to his view of the claimant's abilities and limitations. If the ALJ then credited this opinion and explained why it was more persuasive than that of Plaintiff's treating physician, there would be a basis for denying benefits. Although I am reluctant to delay these proceedings any further, I conclude that a remand for the limited purposes set forth by the Commissioner is warranted.

Accordingly, the motion to remand is **GRANTED**. Given the limited nature of the remand, it is expected that the Commissioner can act relatively swiftly in granting or denying benefits. If additional medical evidence does not give reasonable cause for questioning the opinion of Dr. Wilson, the Commissioner must award benefits.

SO ORDERED this 17th day of September, 2010.

s/ William C. Griesbach

William C. Griesbach

United States District Judge